

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

ANTOINE LAMONT ROYSTER, #294882,

Petitioner,

v.

ACTION NO. 2:05cv671

GENE M. JOHNSON, Director of the  
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to Petitioner's conviction on August 31, 1999, in the Circuit Court for the City of Portsmouth, Virginia, for one (1) count of first-degree murder, one (1) count of robbery, and two (2) counts of use of a firearm in the commission of a felony. Petitioner was sentenced to two (2) life imprisonment terms, plus eight (8) years.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report of the Magistrate Judge was filed on August 11, 2006, recommending dismissal of the petition. By copy of the report, each party was

advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On August 22, 2006, the Court received Petitioner's Objections to Findings and Recommendation. The Court received no response from Respondent.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Magistrate Judge's report,<sup>1</sup> and having made de novo findings with respect to the portions objected to, does hereby ADOPT AND APPROVE the findings and recommendations set forth in the report of the United States Magistrate Judge filed on August 11, 2006, and it is, therefore, ORDERED that the petition be DENIED AND DISMISSED WITH PREJUDICE and that judgment be entered in favor of Respondent.

Accordingly, the Court, having DENIED Petitioner's Motion for Evidentiary Hearing, FINDS that claims (1) through (13) and (15) through (20) are DENIED as they are procedurally defaulted and this Court is barred from reviewing these claims; and claim (14) is DENIED as Petitioner has failed to establish that admission of his

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<sup>1</sup>These objections consist mainly of a restatement of the state case law Petitioner provided in his habeas petition in support of his procedurally defaulted claims. This case law was addressed in the Magistrate Judge's Report and Recommendation. Petitioner's additional objection to the recommended denial of claim (14) consists of a summary of that claim as previously set forth in Petitioner's habeas petition.

The Court notes that on August 22, 2006, the Court received Petitioner's Motion for Evidentiary Hearing, which renewed his request for an evidentiary hearing, without additional support. For the reasons stated in the Magistrate Judge's Report and Recommendation, this motion is DENIED.

confession violated his Fifth and Fourteenth Amendment privilege against self-incrimination, and there was no showing that the state court's determination was either legally or factually unreasonable.

Petitioner may appeal from the judgment entered pursuant to this final order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.

/s/ Jerome B. Friedman  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

September 13, 2006